

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

KNIGHT FIRST AMENDMENT INSTITUTE
AT COLUMBIA UNIVERSITY,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, U.S. CUSTOMS AND BORDER
PROTECTION, U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT, U.S.
CITIZENSHIP AND IMMIGRATION
SERVICES, U.S. DEPARTMENT OF JUSTICE,
and U.S. DEPARTMENT OF STATE,

Defendants.

No. 1:17-cv-07572-ALC

JOINT STATUS REPORT

Pursuant to the parties' December 20, 2019 Joint Status Report, ECF No. 150, the Knight First Amendment Institute at Columbia University (the "Knight Institute" or "Institute") and Defendants U.S. Department of Homeland Security ("DHS"), U.S. Customs and Border Protection ("CBP"), U.S. Immigration and Customs Enforcement ("ICE"), U.S. Citizenship and Immigration Services ("USCIS"), U.S. Department of Justice ("DOJ"), and U.S. Department of State ("State"), respectfully submit this Joint Status Report to update the Court regarding the agreed terms and deadlines for searches for records responsive to Item 1 of the Institute's Freedom of Information Act ("FOIA") request (the "Request") by CBP, ICE, USCIS, DOJ, and State, as well as productions of responsive records by DHS and ICE to date.

A. The Parties' Agreements and Productions to Date

The parties have completed negotiations regarding searches for records responsive to Item 1 of the Request to be conducted by DHS, CBP, USCIS, DOJ's Office of Information Policy ("OIP"), and State. *See* ECF No. 150, at ¶ 1; *see also* ECF No. 146. Specifically, the parties have agreed upon the terms and deadlines for the agencies' searches, and certain agencies have started or completed productions of responsive records, as detailed below.

DHS

1. DHS completed its searches for records responsive to Item 1 of the Request on August 28, 2019, identifying more than 120,000 potentially responsive records. *See* ECF Nos. 149, 137. On November 29, 2019, DHS completed a responsiveness review of those records and determined that only 277 pages were responsive.

2. On January 15, 2020, DHS produced the 277 pages of responsive records, with redactions, to the Knight Institute.

CBP

3. CBP has agreed to search for records responsive to Item 1 of the Request, created between January 1, 2017 and March 31, 2018. The Knight Institute agreed that CBP may exclude "true draft policies" from its search, but the Institute still expects to receive all other responsive communications—even if they do not qualify as final policies.

4. The agency has agreed to complete its search by May 4, 2020, using the following search terms:

("social media" OR ideolog* OR "first amendment" OR "1st amendment" OR speech OR belief OR association) w/50 ((Immigra* OR visa) **AND** (vet* OR screen* OR inadmissib* OR deny OR deni* OR refus* OR remov* OR scrutin* OR "Protecting the Nation from Foreign Terrorist Entry" OR "Optimizing the Use of Federal Government Information"))

5. By May 4, 2020, CBP will inform the Knight Institute of the total number of pages of potentially responsive records identified through its search.

ICE

6. On December 20, 2019, ICE informed the Knight Institute that its search had located approximately 4,000 pages of potentially responsive records. ICE has begun reviewing those records for responsiveness and processing responsive records and completed its first production to the Institute on February 5, 2020. ICE will complete its review and production of the remaining non-exempt responsive records by July 30, 2020.

USCIS

7. As noted in the parties' December 20, 2019 Joint Status Report, ECF No. 150, at ¶ 5, USCIS has agreed to complete its initial search for responsive records by April 6, 2020. By April 23, 2020, USCIS will meet and confer with the Knight Institute, inform the Knight Institute of the volume of potentially responsive records USCIS has compiled, and determine a processing schedule.

OIP

8. On January 18, 2020, OIP informed the Knight Institute that its search had located 44,658 potentially responsive records (122,870 items including email attachments). OIP has agreed to complete its responsiveness review of those records and provide the Knight Institute with a page count of responsive records by March 24, 2020.

State

9. On January 18, 2020, State informed the Knight Institute that its search had located approximately 11,700 potentially responsive records, composed of approximately 250,000 pages. On January 27, 2020, State informed the Knight Institute that the 11,700 potentially responsive

records consisted of 3,389 emails plus their attachments. State proposed to streamline its responsiveness review of those records by first reviewing the 3,389 emails for responsiveness and then producing any responsive emails plus their attachments. The Knight Institute accepted this proposal, provided that State would conduct a thorough review to determine which emails actually contained responsive information or attachments. (For example, if the body of an email writes only, “see attached,” the reviewer will look at the attachments to determine whether the email with attachments is responsive.)

10. On January 30, 2020, State proposed to further streamline its responsiveness review by limiting the 3,389 emails identified in its search, which contained any “eop.gov” email addresses, to those containing “who.eop.gov” (i.e., White House) email addresses, which totaled only 236 emails. The Knight Institute agreed to this proposal with its previous caveat that, if State finds any indication that specified White House employees used personal email addresses to communicate on relevant topics, State will search for those communications as well. State completed its responsiveness review of those records and is processing the approximately 450 pages it identified as responsive during this review.

B. Proposed Next Step

11. The parties have agreed to submit a joint status report by May 14, 2020, providing the Court with further updates regarding the status of Defendants’ searches for records responsive to Item 1 of the Request and the processing of those records.

Dated: February 24, 2020

Sincerely,

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